

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE A.V.RAMAKRISHNA PILLAI

FRIDAY, THE 26TH DAY OF JUNE 2015/5TH ASHADHA, 1937

WP(C).No.15544 of 2015 (P)

PETITIONER:

**NEJI MON,KANNANKARA HOUSE,
VAIPUR P.O,MALLAPPALLY,
PATHANAMTHITTA DISTRICT.**

BY ADV.SRI.UNNI. K.K. (EZHUMATTOOR)

RESPONDENT'S:

- 1. STATE OF KERALA
REPRESENTED BY THE SECRETARY TO GOVERNMENT,
MOTOR VEHICLES DEPARTMENT,SECRETARIAT,
THIRUVANANTHAPURAM-695 001.**
- 2. JOINT REGIONAL TRANSPORT OFFICER,
MINI CIVIL STATION,MALLAPPALLY,
PATHANAMTHITTA-689 587.**
- 3. JOINT REGIONAL TRANSPORT OFFICER,
OFFICE OF THE JOINT RTO,IRINJALAKUDA,
TRISSUR DISTRICT-678 174.**
- 4. VINEETH,KALLEPARAMBIL HOUSE,
KIZHUTHANI,THANNISSERY P.O,
IRINJALAKUDA-678 145.**

R1 TO R3 BY GOVT. PLEADER SMT.K.A.SANJEETHA.

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 15.06.2015, THE COURT ON 26-06-2015, DELIVERED THE FOLLOWING:**

pk

WP(C).No.15544 of 2015 (P)

APPENDIX

PETITIONER'S EXHIBITS:

- P1: TRUE COPY OF THE REGISTRATION CERTIFICATE WITH REG.KL-11
AB-5948 IN THE NAME OF THE 4TH RESPONDENT.**
- P2: TRUE COPY OF THE CLEARANCE CERTIFICATE DATED 6-1-2012 ISSUED
BY THE 3RD RESPONDENT.**
- P3: TRUE COPY OF THE LETTER DATED 20-3-2012 OF THE 2ND
RESPONDENT.**
- P4: TRUE COPY OF THE CHECK REPORT DATED 7-2-2015.**

RESPONDENT'S EXHIBITS:

NIL

//TRUE COPY//

P.S. TO JUDGE

pk

A.V. RAMAKRISHNA PILLAI, J.

W.P.(C) No. 15544 of 2015

Dated this the 26th day of June, 2015

J U D G M E N T

The petitioner approached this Court seeking directions to respondents 2, 3 and 4 to issue registration certificate, permit, fitness certificate etc. to the petitioner's vehicle.

2. The petitioner is the owner of an open tipper having Reg.No.KL-11-AB-5948, which was purchased from the 4th respondent during 2012. He alleges that he applied for transfer of ownership with required documents in the prescribed forms and had remitted fee. The 2nd respondent forwarded the same to the 3rd respondent to get clearance; and the 3rd respondent, on 06.01.2012, issued clearance certificate. But, the 2nd respondent returned the same to the 3rd respondent since there was some objection in the system; and thereafter, though the petitioner several times contacted

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respondents 2 and 3, they have not issued the same; it is alleged. On enquiry with the 3rd respondent, the petitioner was informed that the 3rd respondent has already issued clearance and registration certificate to the 2nd respondent. However, the 2nd respondent has taken the stand that he has not received the same till date. According to the petitioner, since there was no registration certificate in the name of the petitioner, he is not in a position to pay tax, take insurance and to clear other statutory formalities and to ply the vehicle, which, caused huge loss to him. He further alleges that the vehicle is parked near his house for the last 2 years. On 07.02.2015, the Motor Vehicle Inspector took the custody of the vehicle and handed over to the Sub Inspector of Police, Keezhuvaipur, which, according to the petitioner, was without any reason. According to the petitioner, without getting registration certificate, he cannot obtain insurance and other certificates; and there was no fault on the part of the petitioner; and he is ready to clear all

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the dues after getting registration certificate. Hence, this writ petition.

3. The 2nd respondent has filed a statement stating as follows;

The vehicle bearing Reg.No.KL 11 AB 5948 is originally registered at Regional Transport Office, Kozhikode on 17.08.2008 with class of vehicle as Medium Goods Vehicle. This vehicle is included in the office of the 3rd respondent on the strength of the Clearance Certificate issued from Regional Transport Officer, Kozhikode dated 02.06.2011 and transferred to the name of the 4th respondent with effect from 21.06.2011. As per the request of the 4th respondent, Clearance Certificate was issued on 06.01.2012 for transfer of ownership in the name of the petitioner. It is stated that while collecting the details of the vehicle from the 3rd respondent's office through website for effecting transfer of ownership, it is

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found that an objection is pending against the said vehicle; and for rectifying the nature of objection, communications are also sent to the 3rd respondent's office and it is revealed that an unauthorized alteration of the vehicle as Medium Tipper instead of Medium Goods Vehicle was made at that office. Moreover, a Vigilance enquiry is also pending at 3rd respondents' office regarding the unauthorized alteration of vehicles and the petitioner's vehicle is also included in the above Vigilance Enquiry. Therefore, Registration Certificate and its records are also redirected to the 3rd respondent's office on 20.03.2012 for rectifying the defect. Thereafter, reminder letter was also send on 03.03.2015. But, the Registration Certificate and other records in respect of the vehicle have not been received till date.

It is further stated that on 07.02.2015, the

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Assistant Motor Vehicles Inspector of the 2nd respondent's office has conducted a checking at Vaipur Market Junction. Meanwhile, the petitioner's vehicle was conducting service towards Vaipur Market Junction from Chunkappara side. When the Assistant Motor Vehicles Inspector directed the driver to stop the vehicle, the driver stopped the vehicle and absconded from the place. The petitioner could not produce the registration certificate and other documents relating to the vehicle before the Checking Officer. Therefore, the vehicle was taken into custody as there is arrears of tax and non-production of relevant documents. The vehicle was seized under section 11 of the Kerala Motor Vehicles Act and handed over to the Sub Inspector of Police, Keezhvaipur.

It is further stated that the vehicle was seized by the Checking Officer on the ground that

the tax in respect of this vehicle is in arrears from 01.04.2012 Rs.36,643/- is in arrears up to 30.06.2015. The permit in respect of vehicle No.KL 11 AB 5948 expired on 06.01.2012 and and Certificate of Fitness also expired on 09.10.2012. The tax is in arrears and is due from 01.04.2012. The petitioner is unauthorizedly using the vehicle without the valid documents; according to the 2nd respondent.

It is further stated that thereafter, on verification and enquiry, it is revealed that the petitioner had unauthorizedly altered the vehicle as Medium Goods Vehicle instead of Medium Tipper. Tax in respect of Medium Tipper is higher than Medium Goods Vehicle. On a perusal of Exhibit P3, it is clear that the 2nd respondent has issued a communication to the 3rd respondent that an objection is found in the Website regarding the above vehicle and RC Book is returned for

necessary action. Till date, the petitioner has not turned up to cure the defect, and he was using the vehicle as Medium Tipper; according to them. Therefore, they prayed for a dismissal of the writ petition.

4. Arguments have been heard.

5. The learned Government Pleader, referring to Ext.P3, would submit that the 2nd respondent had issued a communication to the 3rd respondent stating that an objection is found in the website regarding the aforesaid vehicle and the RC book is returned for necessary action. However, the petitioner has not turned up to cure the defects and he is using the vehicle as medium tipper. Evidently, the petitioner is unauthorizedly using the vehicle without any valid document. The vehicle was seized on the ground of non payment of arrears of tax from 01.04.2012. The permit expired on 06.01.2012. The certificate of fitness has also expired on 09.10.2012. Therefore, unless and until the petitioner is able to cure

these defects, he is not entitled to get the registration as prayed for.

Therefore, the writ petition is disposed of permitting the petitioner to approach the authorities concerned for rectification of defects in respect of the vehicle; and if the application is put in order, the same shall be considered by the respondent concerned in accordance with law.

Sd/-
A.V. RAMAKRISHNA PILLAI
JUDGE

bka/-